

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:

SUMMIT CARBON SOLUTIONS, LLC

DOCKET NO: HLP-2021-0001

MOTION TO SUBPOENA BRUCE RASTETTER

COMES NOW Kerry Mulvania Hirth, by and through the undersigned counsel, and requests the Iowa Utilities Board (“Board”) to issue a subpoena requiring the appearance of Bruce Rastetter, Executive Chairman, Summit Agricultural Group (“Summit Ag”) to testify in the above-captioned proceeding. In support of her motion, Ms. Hirth states the following:

1. Under Iowa Code section 479B.9 “A permit shall not be granted to a pipeline company unless the board determines that the proposed services will promote the public convenience and necessity.”
2. The Board has determined, and the Iowa Supreme Court has affirmed, that the determination of whether a pipeline promotes the public convenience and necessity is a balancing test that weighs the potential costs and benefits of the proposed pipeline. *Puntenny v. Iowa Util. Bd.*, 928 N.W.2d 829, 841 (Iowa 2019).
3. Summit Carbon Solutions, LLC (“Summit Carbon”) has made competitiveness of ethanol plants a central component of the argument that the proposed carbon dioxide pipeline will promote the public convenience and necessity. For example, Summit Carbon Witness James Pirolli stated in his Direct Testimony, “Summit believes it’s critical to enable access to low carbon fuel markets to ensure the longevity and competitiveness of the ethanol industry to

protect jobs, and more importantly, the families and communities that are relying on them.”
(Pirolli Direct, 4:9-12).

4. Evidence uncovered during the cross-examination of Mr. Pirolli shed new light on the potential impact of Summit Carbon’s proposed pipeline on the ability of ethanol plants in Iowa to compete in low-carbon fuel markets. Specifically, Mr. Pirolli testified to the following:

- a. Competition in markets for ethanol, including international markets and sustainable aviation fuel markets, influence the price of ethanol.
- b. Summit Ag, which is Summit Carbon Solution’s parent company, owns competitors in the international ethanol market, specifically in Brazil.
- c. Summit Ag is planning a facility to convert low-carbon ethanol into sustainable aviation fuel.
- d. Sustainable aviation fuel markets present an opportunity for Iowa’s ethanol plants to sell into low carbon fuel market.

5. Summit Ag’s website boasts that Summit Brazil Renewables produces the “lowest cost, most sustainable gallon of ethanol in the world.” (*See* Attachment A).

6. Summit Ag’s website also boasts that Summit Next Gen is developing “the world’s largest ethanol to jet sustainable aviation fuel facility.” (*See* Attachment B).

7. Summit Ag has an article posted on its website that describes the anticompetitive nature of Summit Ag’s overall corporate enterprise: “Summit Ag and its related entities are building what could be described as a closed loop low carbon fuel supply chain. They own farmland, grow the corn, turn it into ethanol, reduce the ethanol carbon score through CO₂ sequestration, and then turn that fuel into sustainable aviation fuel. There is a big stage here that has been set up that requires vision for people to see.” (*See* Attachment C, page 4).

8. Summit Carbon’s “closed loop low carbon fuel supply chain” may create a vertically-integrated monopoly in violation of Iowa Code section 553.5 which states, “A person shall not attempt to establish or establish, maintain, or use a monopoly of trade or commerce in a relevant market for the purpose of excluding competition or of controlling, fixing, or maintaining prices.”

9. Additionally, ownership of both the world’s largest sustainable aviation fuel facility and the world’s lowest cost low-carbon ethanol plant may give Summit Ag the ability to leverage the purchasing power of its sustainable aviation fuel facility and the low costs of ethanol from its plants in Brazil to artificially suppress the market price of ethanol in the U.S., reducing profits for Iowa’s ethanol plants.

10. The potential for Summit Ag to manipulate the market and suppress the price of ethanol is made even clearer in the offtake agreements.

BEGIN CONFIDENTIAL

11. [REDACTED]

[REDACTED]

12. [REDACTED]

[REDACTED]

13. [REDACTED]

[REDACTED]

[REDACTED]

14. [REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED]

END CONFIDENTIAL

16. The Iowa Supreme Court has explained that manipulating the market to obtain prices below competitive levels are a violation of competition laws, stating “The antitrust laws are as concerned about abuse of monopsony power to pay prices below a competitive level as they are about abuse of monopoly power to charge prices above a competitive level. The seller to the monopsony has been harmed as much as the buyer from the monopoly.” *Mueller v. Wellmark, Inc.*, 818 N.W.2d 244, 265 (Iowa 2012) (citations omitted).

17. Whether or not Summit Carbon’s proposed pipeline is part of a larger corporate enterprise that violates Iowa’s anti-competition law is highly relevant to whether the proposed pipeline promotes the public convenience and necessity. It is necessary for the IUB to understand Summit Ag’s overall business model and how the various subsidiaries – including Summit Carbon – fit into that business model. As noted in the article on Summit Ag’s website, “There is a big stage here that has been set up that requires vision for people to see.”

18. Mr. Rastetter’s testimony will help the Board see the entire stage that Summit Ag has set and understand whether or not Summit Carbon’s proposed pipeline is part of a larger corporate undertaking that violates Iowa Code section 553.5.

19. The Board has the authority to subpoena Mr. Rastetter under Iowa Code section 17A.13, which states, “After the commencement of a contested case, each agency having power to decide contested cases may administer oaths and issue subpoenas in those cases.”

20. Because Summit Ag is not a party to this proceeding, intervening parties do not have the ability to obtain information from Mr. Rastetter or Summit Ag through discovery procedures, making the exercise of the Board’s subpoena power both appropriate and necessary in this instance.

21. This motion is timely because the magnitude of the potential anticompetitive impacts of Summit Carbon's proposed pipeline could not be obtained during discovery and is only becoming evident through live cross-examination of witnesses, particularly with respect to the anticompetitive provisions of Summit Carbon's offtake agreements.

22. Specifically, Summit Carbon prevented intervening parties from conducting any discovery related to the anticompetitive nature of the offtake agreements by refusing to provide the offtake agreements in response to data requests. The Board only issued an order requiring Summit to produce the offtake agreements on August 17, 2023, and gave Summit two days to provide other parties with access to the offtake agreements. August 17, 2023 was the discovery deadline in this proceeding, meaning other parties did not have an opportunity to ask any additional discovery questions about the content of the offtake agreements.

WHEREFORE, Ms. Hirth respectfully requests that the Board issue a subpoena to Bruce Rastetter requiring him to appear to testify in person about the entire corporate structure of Summit Agricultural Group and its business ventures and how Summit Carbon Solutions, LLC fits into the overall scheme of Summit Agricultural Group's business ventures.

Respectfully submitted,
/s/ Anna K. Ryon
Anna K. Ryon

3106 Ingersoll Ave.
Des Moines, IA 50312
(515) 745-4552
anna@anna-ryon.com

Attorney for Kerry Mulvania Hirth

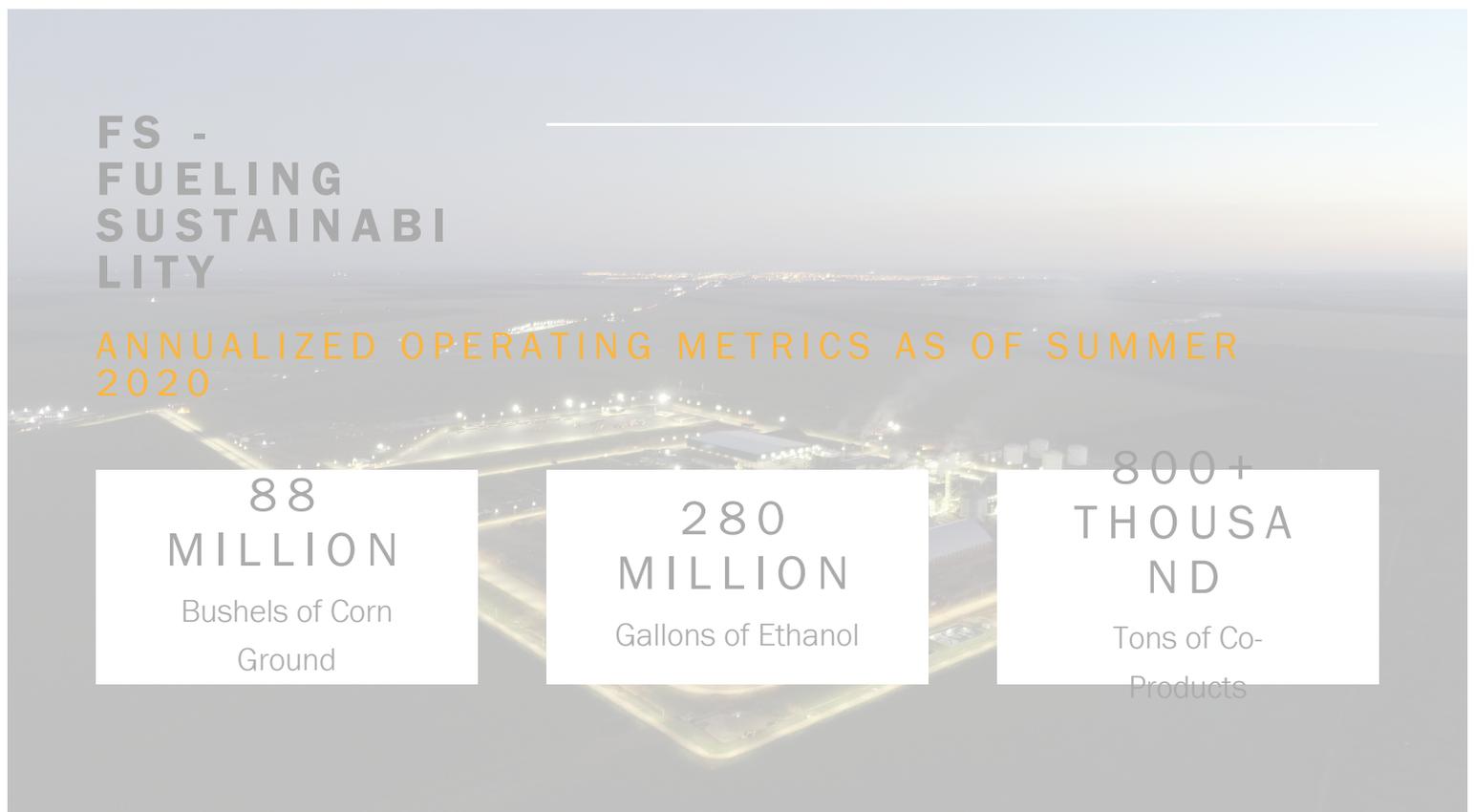


SUMMIT BRAZIL RENEWABLES

LOWEST COST, MOST SUSTAINABLE GALLON OF ETHANOL IN THE WORLD.

In 2014, Summit Brazil Renewables I, LLC, partnered with a local company to construct a 60 million gallon corn ethanol production plant. The company now operates as FS and has expanded the first plant in Lucas do Rio Verde to 140 million gallons per year of capacity. The company built a second plant near Sorriso, Mato Grosso and continues to be on the forefront of modern ethanol production in Brazil. The plants are located in

the key corn producing regions of Brazil that enables FS Bioenergia to utilize low-cost feedstocks while electricity generated onsite from biomass reduces the company's carbon footprint.



OUR PARTNERS

Summit's South American partners include Tapajos, one of Brazil's largest and most respected grain traders, and [ICM, Inc.](#), a corn ethanol plant engineering firm with 102 facilities in its North American building portfolio.



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SUMMIT AGRICULTURAL GROUP ANNOUNCES THE CREATION OF SUMMIT NEXT GEN TO DEVELOP THE WORLD'S LARGEST ETHANOL TO JET SUSTAINABLE AVIATION FUEL FACILITY

Today, Summit Agricultural Group announces the creation of Summit Next Gen, a sustainable aviation fuel production platform that will revolutionize the global aviation industry by providing a scalable supply of low-carbon jet fuel. Summit Next Gen will utilize Honeywell's (NASDAQ: [HON](#)) [Ethanol to Jet](#) processing technology to convert ethanol into sustainable aviation fuel (SAF). Through the project, Summit Next Gen creates an additional market for low-carbon ethanol producers and advances the sustainability goals of the difficult to decarbonize aviation industry.

The global aviation industry demands over 100 billion gallons of jet fuel annually and is expected to double in the next 20 years with increasing passenger demand. Governments, companies, and consumers are demanding low-carbon alternatives to traditional jet fuel; however, the current production of SAF remains challenged by the undersupply of feedstocks consisting of vegetable oils, animal fats and waste oils. The ETJ pathway provides a scalable and cost competitive solution now to solve this problem, and this is largely attributable to advancements undertaken by ethanol producers who have continued to reduce their carbon footprints through adoption of new technologies such as carbon capture and storage (CCS) and investments to boost efficiency.

Growing low-carbon markets, recent state-level programs, and incentives created under the Inflation Reduction Act that are broadly supported by the biofuels, energy, and aviation industries catalyzed the creation of Summit Next Gen to meet growing demand for SAF. Sustainable aviation fuel is nearly identical to petroleum-based jet fuel sources and is currently approved at blend rates up to 50% by ASTM International providing a "drop in fuel" solution.

"The creation of Summit Next Gen and our partnership with a technology leader like Honeywell UOP sets a new standard for the agriculture, ethanol, and aviation industries," said Bruce Rastetter, CEO of Summit Agricultural Group. "The agriculture and ethanol industries have a long history of continuous improvement producing more with less, and this has enabled forward-thinking ethanol producers to be favorably positioned for the present challenge of helping aviation reduce its carbon footprint."

Summit Next Gen will be located in the U.S. Gulf Coast region, providing access to significant logistics and utility infrastructure. The company is advancing engineering and design and has selected Burns & McDonnell in collaboration with Honeywell for the development of the transformational project.

"Replacing fossil fuels with SAF enables a material reduction in aviation related GHG emissions. Expanding SAF feedstocks to include ethanol, biomass, and CO2 is essential to increasing the share of SAF of the total jet fuel demand," said Barry Glickman, vice president and general manager, Honeywell Sustainable Technology Solutions. "We are delighted to collaborate with Summit Next Gen to combine Honeywell UOP ETJ technology with Summit Agricultural Group's experience low-carbon biofuels to help the aviation industry accelerate its decarbonization."

"ETJ is a natural next step for the ethanol industry," said Summit Ag Investors President Justin Kirchhoff. "Scale, cost of production, and carbon footprint are the most important factors for the SAF industry, and we believe ethanol has a material advantage in these areas relative to existing SAF feedstocks."

About Honeywell

Honeywell delivers industry-specific solutions that include aerospace products and services; control technologies for buildings and industry; and performance materials globally. Our

technologies help aircraft, buildings, manufacturing plants, supply chains, and workers become more connected to make our world smarter, safer, and more sustainable. For more news and information on Honeywell, please visit www.honeywell.com/newsroom.

View the Original Release on PR Newswire

< IN THE NEWS: CO2 PIPELINE STATE OF DEVELOPMENT AND BEYOND

SUMMIT AGRICULTURAL GROUP SUPPORTS UNIVERSITY OF IOWA FOOTBALL STUDENT-ATHLETES AND UNIVERSITY OF IOWA CHILDREN'S HOSPITAL THROUGH SWARM COLLECTIVE

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IN THE NEWS: CO2 PIPELINE STATE OF DEVELOPMENT AND BEYOND

By David Kruse

May 25, 2023

Progress never comes easy and so it is for a project the scope of burying CO2 pipelines from IA to ND and IL. There are a lot of moving parts that must be connected and the process is still advancing. There is nothing apparent here in Iowa that would portend failure for the proposed CO2 pipelines. IA Governor Kim Reynolds favors adding CO2 sequestration to the Iowa ethanol industry supply chain. She is a very pro-business Governor and in control of the strings that facilitate these projects. IA Senate legislative leaders did not allow anti-CO2 pipeline bills into the junket so as to give the Governor cover. Otherwise, she would have had to veto them and they spared her the notoriety of such public exposure. This allows her to stay under the radar on what to many is an unpopular position. She also recently appointed 2 new members to the 3 person IUB board so there is no reason that when the T's are crossed and I's dotted that the projects will not get IUB approval. They hold their hearings in October.

Summit Carbon Solutions has acquired nearly 70% of its needed easements voluntarily from landowners. They are still negotiating with groups of farmers who have banded together to negotiate and are just looking forward to having the most leverage to make a deal. Each group represents several miles of the pipeline route so they should get closer to the finish line in chunks. The IUB board was also going to provide landowners with mediators if they wish to use one to negotiate on their behalf. The easement process is complicated and scares some people who need mentorship through it. I do not know what it pays but I would kind of like that

job. Pipeline opponents do not like the idea of mediators as that means they will end up with agreement on an easement. The Dakota Access oil pipeline was approved with 75% of voluntary easements and it would be good if Summit could get to 80%. Pipeline opponents are looking for any obstacle that they can dream up to throw in front of the process but without help coming from the legislature, they will eventually lose as pipe is buried. If landowners stick to their guns and refuse to negotiate and the pipeline gains IUB eminent domain approval, they will be in the worst of all worlds. They will not be able to block the pipeline and they will not get paid what they should either. I talked to someone who fought Dakota Access in SD and it did not work out well for them.

Progress varies from state to state. Sound like the going is easiest in NE where they have no regulation regarding CO2 pipelines. NE laws governing hazardous material pertain to oil but not CO2. Legislation to block CO2 pipelines in SD by their House lost in Senate committee falling to get a full vote. The SD utilities board reportedly meets in September. Some in ND are trying to use their law against foreign ownership against Summit, which they claim has some foreign investors. The irony of that is that ND's largest shale oil developer, billionaire Harold Hamm, is one of the major investors in Summit. This is kind of like Florida going after Disney after all that Mickey Mouse has done for them. On farm surveys were ruled constitutional in ND but not so in IA. These companies have made significant outlays in legal expenses to handle the myriad of issues they confront. Court processes take time and delay can back up progress, which is the greatest loss.

While the CO2 pipeline process is on going, the ethanol industry is already moving on to what will be the next stage. Co2 sequestration allows the industry to produce low carbon fuel, which broadens the market and increases the value from monetization...making low carbon jet fuel from ethanol. The general trend is toward EVs and away from fossil fuels but by making ethanol a low carbon fuel by sequestering the CO2 in the production process it creates market opportunities that can have a far-reaching impact on the longevity of the ethanol industry. US airlines need to cut emissions and one way to accomplish that is to convert ethanol into sustainable aviation fuel. I have noted that by sequestering CO2 produced in the ethanol production process, it reduces the carbon score of ethanol to the level of EVs. That makes ethanol an even more sustainable low carbon fuel.

Bruce Rastetter is the CEO of many Summit commercial entities, primary of which is Summit Ag here in IA. They own farmland, produce cattle, hogs, crops, and Bruce was one of the founders of the IA ethanol industry. One of his investor entities built the first corn-based ethanol plant in

Brazil. The CO2 pipeline project named Summit Carbon Solutions is his. The Summit Ag Group recently announced that it is creating yet another entity, Summit Next Gen, which will take low carbon ethanol and turn it into jet fuel.

A press announcement stated, **"Summit Next Gen will utilize Honeywell's (NASDAQ: HON) Ethanol to Jet processing technology to convert ethanol into sustainable aviation fuel (SAF). Through the project, Summit Next Gen creates an additional market for low-carbon ethanol producers and advances the sustainability goals of the difficult to decarbonize the aviation industry.**

- *The facility, to be located in the U.S. Gulf Coast region, will utilize Honeywell's leading Ethanol to Jet (ETJ) process technology to transform low-carbon ethanol into sustainable aviation fuel (SAF)*
- *The innovative project will produce over 250 million gallons of sustainable aviation fuel per year and is expected to be operational in 2025*

The global aviation industry demands over 100 billion gallons of jet fuel annually and is expected to double in the next 20 years with increasing passenger demand. Governments, companies, and consumers are demanding low-carbon alternatives to traditional jet fuel.

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forward-thinking ethanol producers to be favorably positioned for the present challenge of helping aviation reduce its carbon footprint."

Summit Ag and its related entities are building what could be described as a closed loop low carbon fuel supply chain. They own farmland, grow the corn, turn it into ethanol, reduce the ethanol carbon score through CO2 sequestration, and then turn that fuel into sustainable aviation fuel. There is a big stage here that has been set up that requires vision for people to see. Summit is using the stage tying it altogether. What they are doing is in the interest of all farmers who will be connected to this supply chain in some way themselves. Many who balk at being paid well for having pipe buried in their farms are not seeing it. I believe that those fighting it are crossways to our future.

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David Kruse is author and producer of The CommStock Report, an ag commentary and market analysis available daily by radio and by subscription on DTN/FarmDayta and the Internet. CommStock Investments is a registered CTA, as well as an introducing brokerage.

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